of the present state of affairs, when these volumes are to be counted by tens of thousands, and this vast number is being yearly augmented? It is a full recognition of the evil of this multiplicity of reports that has led the American Bar Association to constitute a permanent "Committee on Law Reporting and Digesting." Systematic efforts are henceforth to be made by the Committee toward preventing the duplication of State and Federal reports, and toward securing, too, more uniformity among reporters in the construction of both the index and the case syllabus. The Committee, as stated in their report submitted at the meeting of the Bar Association held at Detroit last August, sent a circular letter to the various official court reporters, — sixty-five in all. The answers, besides furnishing valuable data as to the defects in the present varying systems of reporting, reveal a nearly unanimous desire on the part of the writers for a convention of official reporters. In such a convention under the auspices of the Committee, there is a strong likelihood of inaugurating far-reaching and uniform remedial measures.

THE TORRENS LAND TRANSFER SYSTEM ON TRIAL. — At the recent election in Cook County, Illinois, it was voted to adopt the provisions of the Land Transfer Act passed by the last legislature. This brings the city of Chicago within the operation of the act. Although several States have at different times appointed commissioners to investigate the so-called "Torrens" land transfer system, that is, a system of transfer of land by record of title, it is now for the first time to be given a trial in this country. The merits and demerits of the system have been pretty well threshed out, and the consensus of opinion is strongly in its favor as an original question. As a powerful plea, however, against introducing it, it is urged that the conditions that have secured its success in a new country like Australia are lacking here; chiefly because the land, in our older States at least, is not under government ownership, which would permit the government to inaugurate without inconvenience such a system of transfer, but is parcelled out among a multitude of private landholders; and it is repugnant to them, long accustomed to our system of deed registration, to risk their land titles by a radical change in the methods of transfer. A demonstration, however, by actual test, that the transfer by record of title is capable of successfully supplanting our present methods will go a long way toward answering these conservative objections. The success of the Illinois experiment therefore probably insures like action in other States. In this lies its importance.

The act, while modelled upon the Torrens system as it exists in Australia, differs in one important respect. The first registration does not give absolute title; it confers possessory title merely; but as a result of a short period of limitation provided for in the same act, this possessory title becomes absolute, in the absence of adverse claims filed in the mean time, at the end of five years. Thus, by a little postponement of the time when the full benefit of the act is to be realized, the title is made absolute in a manner already familiar in this country; and there is no danger that the true owner's title may be summarily divested. As a result, too, the expense of an exhaustive examination of title, which necessarily precedes any registration conferring absolute title, is avoided.

The act has the merit also of excluding unnecessary detail. It leaves to the administrative officers the main burden of working out the details for carrying its provisions into effect. It was the heaping of detail on detail

that contributed to make the majority report of the Massachusetts Commission in 1892 objectionable. It may be questioned, however, if the act in its failure to make registration compulsory does not stop short of effecting the best results. The option given to landholders to transfer by deed as heretofore, or by record of title, is in effect the establishment of a dual system of transfer. Such a system was emphatically pronounced "unworkable" by an English Commission in 1868. Even though the dual system be not unworkable, compulsory registration of title possesses marked advantages. It certainly hastens the time when all land titles shall be conclusively evidenced by registration. Information as to the working of the Illinois act will be eagerly awaited.

In a recent note on *Greenwood Ice & Coal Co.* v. *Georgia Home Ins. Co.*, 17 So. Rep. 83 (Miss.), 9 HARVARD LAW REVIEW, 218, the case of *New York Central Ins. Co.* v. *National Protection Ins. Co.*, 14 N. Y. 85, was cited, but the following recent New York decisions which have kindly been furnished by the Hon. William M. Ross of the Onondaga County bench were overlooked: *Pratt* v. *The Insurance Co.*, 130 N. Y. 206; *Empire State Ins. Co.* v. *American Central Ins. Co.*, 138 N. Y. 446; *Knaus* v. *Gottfried Krueger Brewing Co*, 142 N. Y. 70; *Bank of New York Ass'n.* v. *American Dock & Trust Co.*, 143 N. Y. 559.

An examination of these cases shows that the test now applied by the New York courts as to whether an agent may represent both parties is whether or not he is invested with discretion. No other jurisdictions seem to have recognized this distinction. Contracts made by the agent as representing both parties are held voidable, regardless of lack of discretion in the agent, and the agent is not allowed to recover commission from either party in absence of their knowledge of the dual agency. *Connel* v. *Smith*, 142 Pa. St. 25; *Rice* v. *Wood*, 113 Mass. 133; *Berlin* v. *Farwell*, 31 Pac. Rep. 527 (Cal.); *Bell* v. *McConnell*, 37 Ohio St. 396; *Kronenberger* v. *Fricke*, 22 Ill. App. 550; *Salomons* v. *Pender*, 34 L. J. Ex. 95. But see *Hammond* v. *Bookwalter*, 39 N. E. Rep. 872 (Ind.). The test of discretion is distinctly repudiated in *Porter* v. *Woodruff*, 36 N. J. Eq. 174, and *Jansen* v. *Williams*, 55 N. W. Rep. 279 (Neb.).

As to the agent's right to commission from both parties where he simply introduces them and they make their own contract, see *Montraso* v. *Eddy*, 94 Mich. 100; *Green* v. *Robertson*, 64 Cal. 75.

ISSUE LIVING — CHILD EN VENTRE SA MÈRE. — *In re Burrows*, [1895] 2 Ch. 497, a recent English case, raises a point of interest and significance. The case turned upon the construction of a will, which devised property to A for life, and upon her death to B, for her absolute use and benefit in case she have issue living at the death of A; "but in case she has no issue then living," then over. At the time of A's death, B was *enceinte*, and the following day gave birth to a living child. The question thus sharply presented on the facts was, whether the child *en ventre sa mère* was "issue living" within the meaning of the will. Chitty, J., who sat as judge, refusing to distinguish between "child" and "issue" as an over-refinement, held that the child was to be deemed living at the death of A, for the benefit, not of the child, but of B.